

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

EDDIE F. MARSHALL
SANDRA D. MARSHALL
VENA MARSHALL
KATHRYN P. MARSHALL,

Plaintiffs

CASE NO. C-1-02-189
JUDGE HERMAN WEBER
MAGISTRATE JUDGE HOGAN

And

MATTHEW H. MARSHALL
ABIGAIL D. MARSHALL,

New-Party Defendants.

PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
MORE DEFINITE STATEMENT/
OR MOTION TO STRIKE

Vs.

NEW BOSTON COMMUNITY SCHOOL
DISTRICT
LOWELL HOWARD
REVEREND BERNARD E. TILLEY, JR.
MELINDA BURNSIDE
LINDA WESSEL
JERRY BENTLEY
PATRICIA K. POTTER
BARBARA YVONNE CABLISH,

Defendants,

And

RACHEL JENKINS CORIELL
LORRAINE S. CLERICO aka LORRAINE
SPARKS
SUSAN E. GOINS
GREG GRANT
JOSEPH W. McGRAW
CONNIE SPENCER
ANTHONY W. TAYLOR
JOHNY E. WHISMAN
SCOTT WHISMAN
WILLIAM D. WILLIAMS,

New-Party Defendants.

BRIEF OF PLAINTIFFS IN OPPOSITION TO MOTION OF DEFENDANTS FOR A
MORE DEFINITE STATEMENT AND/OR TO STRIKE PORTIONS OF THE
AMENDED COMPLAINT OF PLAINTIFFS.

Initially, plaintiffs will address the issues raised in footnote 1 on page 3 of the Brief in support of defendants' motion. Former plaintiff, Rebecca Bussa, was removed as a party plaintiff from the Amended Complaint. Her claims will be filed in an independent action. Former defendants, Ohio Department of Education, Scioto County Board of Education, and Susan Tave Zelman, were not included as party defendants in plaintiffs Amended Complaint, and will be dismissed as party defendants. The inclusion of the name of Rebecca Bussa in paragraph 21 is a drafting error when her name was not deleted in the amending process. Plaintiffs consent to her name being stricken from the Amended Complaint and the last sentence of paragraph 21. Otherwise, paragraph 21 is totally unobjectional and is not subject to an attack.

Defendants seek amendments to or the striking of paragraphs 16, 22, 26 and 31 of the Complaint. The attack as to the adequacy of these paragraph also is not well taken. First, this Amended Complaint was filed in response to this Court's order to set forth with greater specificity the claims. Paragraph 31 does just that. It identifies the acts, the actors and the time frame of their activities. These matters are more the subject of discovery, however in compliance with the Court's order these factual allegations were included.

The objection to paragraphs 16, 22, and 26 seems to be that they do not identify which defendant were the actors. The paragraphs refer to "said defendants" or "defendants" because it is the allegation of the Complaint that all defendants listed participated in various degrees and forms to the alleged Anti-Semitism and the abuse of the plaintiffs for not wanting to participate in the Chapel Service. It must be noted at this

juncture that the “defendants” at this time in the case are the remaining eight original defendants. The new-party defendants have not yet been served and are not represented by defense counsel.

The Amended Complaint of the plaintiffs sets forth the claims of plaintiffs with sufficient clarity and detail in compliance with the Federal Rules of Civil Procedure to enable defendants to respond. The Motion of defendants is an attempt to erode the claims of plaintiffs. It is time for this case to move into the discovery stage so that each party can obtain in detail all of the relevant facts and evidence for the preparation of a resolution or a trial of this cause.

WHEREFORE, plaintiffs respectfully request this Court to deny the Motion of defendants and that they be ordered to file responsive pleadings to same.

Respectfully submitted,

/s/ Joseph Bancsi

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CERTIFICATE OF SERVICE

I certify that on the 30th day of July, 2004, a copy of the foregoing document was Filed electronically. Notice of this filing will be sent to all parties by operation of the

Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Joseph Bancsi

Joseph Bancsi
Attorney For Plaintiffs